THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO. 28210 OF 2005

Dated 3rd January 2006

Between:

B.Bhogeswara Rao S/o.Late B.L.Narasimha Murthy

…Petitioner

And

The Depot Manager, APSRTC, Tenali Depot, Tenali.

…Respondents

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WRIT PETITION NO. 28210 OF 2005

O R D E R:

The petitioner is a Driver, in Tenali Depot of APSRTC. A charge sheet was issued on 25.5.2005, alleging that the petitioner deliberately absented on 21.5.2005, and thereafter, submitted a leave to the competent authority, for sanction of leave from 21.5.2005 to 24.5.2005, to cover his absenteeism. The petitioner submitted his explanation on 31.5.2005. An enquiry officer was appointed, and he in turn, submitted a report on 25.9.2005. The sole charge levelled against the petitioner was held proved. Thereafter, the respondent issued a show-cause notice, dated 30.11.2005, directing the petitioner to show cause as to why he shall not be removed from service. Petitioner challenges the same, stating that the respondent predetermined the issue, and the show-cause notice is an empty formality. He contends that a medical certificate can be submitted, within 48 hours from the time of absenteeism, under regulation 11(2) of APSRTC Leave Regulations, and that there does not exist any basis for the impugned action.

Heard the learned counsel for the petitioner and learned Standing Counsel for the respondent.

The petitioner challenges show-cause notice, dated 30.11.2005. It is true that the only charge against the petitioner was that he absented for duty on 21.5.2005, and that he submitted a leave application for the period from 21.5.2005 to 24.5.2005. The enquiry officer submitted a report, stating that the petitioner was guilty of absenteeism. The respondent proposed to remove the petitioner, on the basis of the charge referred to above.

The petitioner can certainly explain his position, with reference to the relevant rules, and even plead that imposition of such punishment for absence for one day, that too, by applying for leave, would be totally disproportionate. This Court cannot find any basis to interfere with the show-cause notice, at this stage. The petitioner can be said to have suffered any grievance, if only the points urged by him were not taken into account, and a punishment is imposed against him, disproportionate to the act of misconduct alleged against him.

Therefore, the writ petition is disposed of, leaving it open to the petitioner to submit his explanation, urging all the grounds open to him. In case, such explanation is made within 10 days from today, the same shall be taken into account, by the respondent, and he shall pass appropriate orders, duly taking into account, the explanation submitted by the petitioner, as well as the provisions of law invoked by him. There shall be no order as to costs.

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3rd January 2006

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